

December 18, 2006

Via Electronic Mail (<http://www.arb.ca.gov/lispub/comm/bclist.php>)

Clerk of the Board  
Air Resources Board  
1001 I. Street, 23<sup>rd</sup> Floor  
Sacramento, CA 95814

Dear Board Members and Staff:

EMA presented testimony at the June 22, 2006, hearing of the Air Resources Board during which amendments to the service information requirements affecting heavy-duty engines were adopted (the "Rule"). EMA submitted comments previously and has worked extensively with Staff during the rulemaking process for the heavy-duty SIR amendments.

Our comments on the 15-day notice and regulatory language posted on November 30, 2006 are limited to three areas: (1) the reference to and definition of "diesel-derived" as it relates to the compliance flexibility provisions of section (b)(2); (2) the definition of "emission-related engine information" as it relates to the requirement for engine manufacturers to make available transmission information under section (e)(1) to the extent made available to franchised dealerships or authorized networks; and (3) the reference to TMC Recommended Practice RP1210 in section (h)(1)(B).

#### "Diesel-derived" Reference and Definition

In the draft regulatory language made available at the hearing, ARB proposed to add a definition for "diesel-derived" after it had included a reference to "diesel-derived" engines in section (b)(2). Section (b)(2) of the Rule provides compliance flexibility to medium-duty engine manufacturers to allow them to comply with heavy-duty engine service information requirements. EMA supports the compliance flexibility provisions of section (b)(1) and (b)(2) which were adopted at the June 2006 hearing.

ARB later added language to define the term "diesel-derived" in section (d)(7) of the Rule. ARB's definition is problematic in that it would exclude from the compliance flexibility provisions of (b)(2) alternative-fueled engines that are derived from compression-ignition-cycle engines but that operate on a spark-ignited cycle, as some diesel-derived, alternative-fueled engines operate. It is EMA's understanding that ARB did not intend to exclude such engines from the opportunity for compliance flexibility provided to diesel-derived engines operating on a CI cycle. EMA recommends, therefore, that ARB revise the proposed regulation by deleting the phrase "diesel-derived" from (b)(2) and, in turn, also delete the proposed definition of "diesel-derived."

The term “diesel-derived” is not necessary and only serves to limit the application of the compliance flexibility provisions without good reason. Removing the language “diesel-derived” is a simple, straightforward approach that eliminates any confusion concerning the intent of the application of section (b)(2). It should be noted that this would not extend compliance flexibility to conventional, gasoline-fueled SI engines. Instead, the compliance flexibility provisions would be extended to diesel-fueled engines and to alternative-fueled, or combination diesel- and alternative-fueled, engines derived from compression-ignition-cycle engines and operating on either a CI or SI cycle.

In the alternative, ARB could opt to revise both (b)(2) and (d)(7). In that regard, ARB would need to add the words “diesel or” before “diesel-derived” in (b)(2) and revise the definition of “diesel-derived” in (d)(7) as follows: (<deletions> and additions)

(7) “Diesel-derived engine” means an engine ~~using~~ derived from a parent engine that uses a compression-ignition thermodynamic cycle and has been modified to be powered by either any combination of diesel fuel or alternative fuels such as liquefied petroleum gas or compressed natural gas.

A final option is to revise the definition of “diesel-derived” in (d)(7) as follows: (<deletions> and additions)

(7) “Diesel-derived engine” means an engine using a compression-ignition thermodynamic cycle and powered by ~~either~~ diesel fuel or an engine that has been derived from a parent engine that uses a compression-ignition thermodynamic cycle and has been modified to be powered by any combination of diesel fuel or alternative fuels such as liquefied petroleum gas or compressed natural gas.

In any event, the language should be clear that diesel-fueled engines, alternative-fueled engines, and engines operating on some combination of diesel and alternative fuel are covered by the compliance flexibility provisions.

### Transmission Information

After more than two years of discussions and some time after ARB Staff had agreed that it was not appropriate to extend transmission service information requirements to engine manufacturers, Staff presented EMA with proposed language two days before the June, 2006, hearing that would require engine manufacturers to provide transmission service information in some cases. EMA presented arguments in both oral and written comments opposing the transmission provisions. Nevertheless, the Board adopted provisions, through changes to the definition of “emission-related engine information,” that would require engine manufacturers, among other things, to make available transmission repair information if that information was used in connection with

engine on-board diagnostics and also was made available to the engine manufacturer's authorized service network ((d)(9)(B)).

At the hearing, Board members expressed understanding of EMA's concerns with placing responsibility for transmission information on engine manufacturers when engine manufacturers are not vertically integrated and generally do not produce transmissions or vehicles, but only engines. The Board urged Staff to work with engine manufacturers in crafting a provision that would address the significant concerns raised by engine manufacturers.

The language that ARB Staff now has proposed as part of the 15-day notice attempts but fails to address those concerns. As a result, the proposed language creates an uneven playing-field for transmission manufacturers. It does not take into consideration the drastically different nature of the horizontally-integrated heavy-duty business environment and, thus, establishes discriminatory requirements among transmission manufacturers. In the horizontally-integrated market of heavy-duty motor vehicles, there is little practical differentiation between companies producing transmissions and those producing both engines and transmissions. An engine from one manufacturer is not necessarily more likely to be mated with a transmission from that manufacturer than from another manufacturer. Unlike the light-duty industry, heavy-duty engines and transmissions comply with industry-standard mounting and interface specifications and, thus, transmissions may be interchanged. If a manufacturer's engine requires OBD information from a transmission, that engine requires OBD information from any and all transmissions mated to the engine, regardless of the manufacturer of the transmission. And, since such an engine will be mated to many different transmissions in many different vehicles, it is discriminatory to force an engine manufacturer to provide transmission information effectively on the basis that the engine manufacturer also produces transmissions.

ARB should consider the nature of the horizontally-integrated heavy-duty business and consider the differences between it and the light-duty industry. Heavy-duty manufacturers that produce engines and transmissions do not manufacture nor service those products together. Even within one company, transmissions and engines are developed and produced independently of one another. This separation extends through servicing such that a manufacturer will have two different dealer networks to service engines and transmissions. EMA recommends that ARB address these concerns by revising the definition of "emission-related engine information" in (d)(9) as follows, or making other appropriate changes to the regulatory language: "Where a transmission from a manufacturer is assembled with engines from other manufacturers, transmission information must be provided to covered persons only if that information is also provided to another, third party engine manufacturer's service network." EMA believes the proposed language will properly achieve the intent of the SIR rule.

RP1210 Reference

EMA has been advised by the Technology and Maintenance Council of the American Trucking Association that a new TMC Recommended Practice 1210B has been balloted for approval and is expected to be final some time during the first half of 2007. To that end, EMA recommends that ARB revise the reference in section (h)(1)(B) to add "RP1210B" in addition to the existing RP1210A reference. Until RP1210B has been finalized by TMC, it should not fully replace RP1210A as the referenced standard but it should be included in the regulation.

Please do not hesitate to contact me with any questions or if you need further information to implement EMA's recommendations.

Very truly yours,

***Lisa A. Stegink***

Lisa A. Stegink  
Legal Counsel